

Subchapter Five: Enforcement

1.05.010 Misdemeanors.

(a) Unless the punishment for a misdemeanor is expressly specified in this Code, each violation of the Colma Municipal Code that is made a misdemeanor shall be punishable by imprisonment in the county jail for a period not to exceed six months, or by a fine not exceeding \$1,000, or by both such fine and imprisonment.

(b) In any case where a violation is made a misdemeanor, the prosecuting attorney has discretion to charge the violation as an infraction.

[History: Ord. 624, 12/8/04]

1.05.020 Infractions.

(a) Except for actions required of officials of the Town of Colma in the ordinary course of employment, whenever in this Code or in any other ordinance or resolution of the City an action is prohibited or is made or declared to be unlawful or an offense, or the doing of an act is required or the failure to do any act is declared to be unlawful, the violation of such provision of this Code or any City ordinance or resolution shall be an infraction.

(b) Wherever it states in the Colma Municipal Code that a violation of a city ordinance is a misdemeanor, the Town may prosecute the violation as an infraction.

(c) Each infraction shall be punishable by a fine as follows:

(1) For the first violation of an ordinance, \$50.000 plus assessments;

(2) For the second violation of the same ordinance within 12 months, \$100.00 plus assessments; and

(3) For each additional violation of the same ordinance within 12 months, \$200.00 plus assessments.

[History: Ord. 624, 12/8/04]

1.05.030 Separate Offenses.

Every day that a violation of this Code or any other ordinance continues shall constitute a separate offense, except that each person violating a provision of this code relating to the time a vehicle may be left standing or parked is guilty of a further and separate violation for each period of time that the vehicle is left so parked equal to the maximum legal parking time for the particular traffic zone or parking space as designated by ordinance or resolutions adopted fixing such maximum legal parking time.

[History: Ord. 624, 12/8/04]

1.05.040 Prohibited Acts Include Causing, Permitting and Suffering.

Whenever in this Code any act or omission is made unlawful, it shall include causing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

[History: Ord. 624, 12/8/04]

1.05.050 City Attorney's Authority.

- (a) A violation of the Colma Municipal Code may be prosecuted by the City Attorney.
- (b) The City Attorney may civilly enforce the provisions of this Code or any other obligation through civil action.
- (c) Nothing herein shall limit the discretion of the prosecuting attorney under law.
- (d) The authority under this section may be delegated.

[History: Ord. 624, 12/8/04]

1.05.060 Authority of Court.

- (a) The provisions of this Code which declare certain crimes to be punishable as herein mentioned delegate grant authority on the court to pass sentence to determine and impose the punishment described.
- (b) Whenever in this Code the punishment for a crime is left undetermined between certain limits, the punishment to be inflicted in a particular case shall be determined by the court authorized to pass sentence, within such limits as may be prescribed by this Code.

[History: Ord. 624, 12/8/04]

1.05.070 Remedies.

- (a) Any violation of this Code shall constitute a public nuisance. In addition to any other remedies provided by this Code, the City may abate and bring civil suit to enjoin or abate the violation.
- (b) The remedies in this ordinance shall be cumulative and not exclusive.

[History: Ord. 624, 12/8/04]

1.05.080 Recovery of Attorneys' Fees and Costs.

(a) *Recovery of Costs Authorized.* In addition to any other remedy available to the Town, in any civil or administrative action or proceeding commenced by the Town to abate such a public nuisance, to enjoin a violation of any provision of this Town Code, or to collect a civil or administrative penalty or other amount due to the Town as the result of any such public nuisance, the prevailing party shall be entitled to recover from the other party in any such action or proceeding all costs incurred by the prevailing party in such action or proceeding.

(b) *Election to Recover Attorneys' Fees.* Notwithstanding the foregoing paragraph, the prevailing party shall be entitled to recover attorneys' fees from the other party only if, at the commencement of that individual action or proceeding, the Town gives notice of an election to seek recovery of attorneys' fees.

(c) *Definition of "Costs".* As used in this Section 1.05.080, "costs" shall have the meaning set forth in California Code of Civil Procedure Section 1033.5, including, without limitation, attorney's fees. In addition to such items, all of the following shall be included within the definition of "costs":

(a) Personnel costs of the Town, as actually incurred by the Town for contractors and consultants or based on established rates of employee costs as adopted by resolution of the City Council from time to time. Such personnel costs shall include, but not be limited to, the costs incurred by the Town to pay any contractor to abate a public nuisance;

(b) Costs of administrative hearings, including, hearing officer costs and reporter costs;

(c) Any administrative fines or penalties; and

(d) Accrued interest at the maximum rate established by law.

(d) *Collection of Costs.* The City Manager or designee shall keep an accounting of costs incurred in any action, proceeding or other matter described in this Section.

(e) *Civil Actions.* In any civil action, the Town may seek recovery of costs (including any costs incurred in any related administrative matter) as set forth in California Code of Civil Procedure Section 1033.5, subsection (c)(5).

(f) *Remedies Cumulative.* The remedies contained in this Section are cumulative to one another and to any other remedy available by law or in equity to the Town.

[History: ORD. 644, 5/10/06; ORD. 660, 7/11/07]

